IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6099 of 2007()

(CRIME NO.200 OF 2007 OF ALAPPUZHA SOUTH POLICE STATION)

PETITIONER/ACCUSED NOS.2 & 3:

1. **JOBY, AGED 23 YEARS, S/O.MOHANAN, KANDANATTU NIKARTHIL, PATTANAKAD P.O., CHERTHALA.**

2. **ANUROOP K.S., AGED 28 YEARS, S/O.SURENDRAN, KATTUNGAL VELIYIL, PUNNAPRA NORTH P.O., PARAVOOR, ALAPPUZHA.**

BY ADV. SRI.ASHIK K.MOHAMMED ALI

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE SUB INSPECTOR OF POLICE, ALAPPUZHA SOUTH POLICE STATION, THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No.6099 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 2 and 3 in a crime registered for offences punishable, inter alia, under Secs.406 and 420 of the IPC. They are alleged to be the collection agents. Accused No.1 is admittedly the superior official under whom they work. It is their duty to collect the amounts from the customers to whom credit cards have been issued. They admittedly are expected to hand over such amounts to the 1st accused. The 1st accused, it is alleged, had not remitted the amounts so collected by him and by others working under him to his principal – the de facto complainant. He instead issued cheques from his personal account which bounced. It is, in these circumstances, that the de facto complainant filed a complaint against the accused

before police.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent and they are being unnecessarily dragged into the controversy between the first accused and the principal. The petitioners are expected to collect the amounts and hand them over to the 1st accused. They had done so. If the 1st accused has not, in turn, remitted the amounts before his principal and instead issued cheques which bounced to his principal, the petitioners cannot obviously be made liable, it is urged.

3. I have gone through the Case Diary. Except that the petitioners as collection agents have collected the amounts from the customers, there is no worthwhile allegation raised against them. I am, in these circumstances, satisfied that the petitioners are, at any rate, entitled to anticipatory bail on the basis of the allegations presently raised and the materials presently available. Appropriate conditions can, of course, be imposed in the interests of fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following

directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 17/10/07. They shall be released on regular bail on their executing bonds for Rs.50,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18/10/07 and 19/10/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 17/10/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.50,000/- each without any sureties undertaking to appear before the learned Magistrate on 17/10/07.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge